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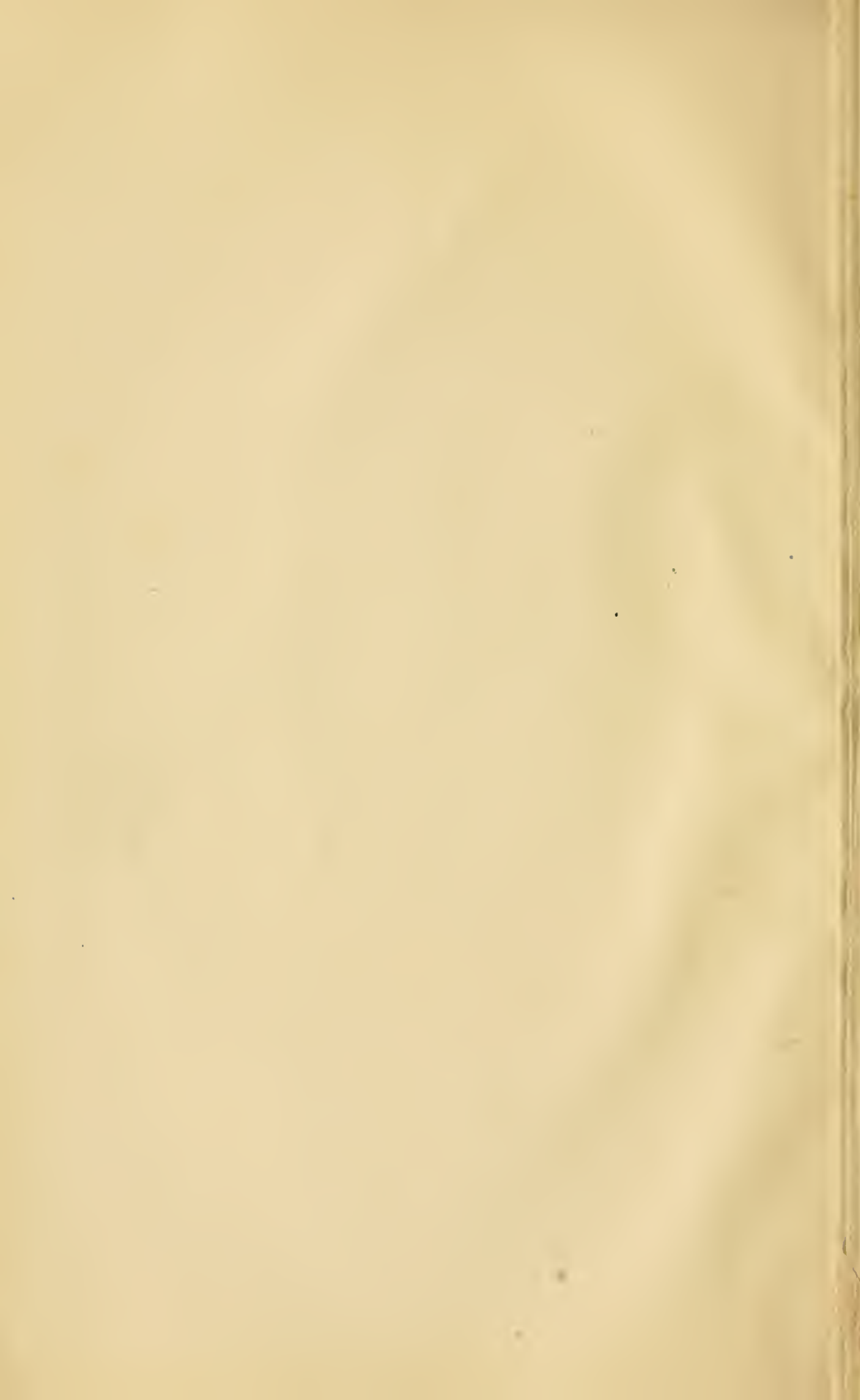
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SPEECH

OF

HON. WILSON REILLY,

OF PENNSYLVANIA,

IN FAVOR OF THE

ADMISSION OF KANSAS

AND

THE LECOMPTON CONSTITUTION.

DELIVERED

IN THE HOUSE OF REPRESENTATIVES,

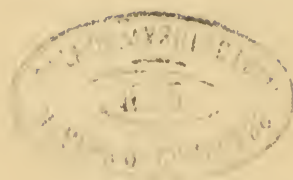
MARCH 30, 1858



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SPEECH

OF

HON. W. REILLY, OF PENNSYLVANIA,

IN FAVOR OF

THE ADMISSION OF KANSAS.

UNDER

THE LECOMPTON CONSTITUTION.

DELIVERED IN THE HOUSE OF REPRESENTATIVES, MARCH 20, 1858.

The House being in Committee of the Whole on the state of the Union—Mr. REILLY said:

Mr. CHAIRMAN: I have, up to this hour, refrained from a public expression of my views on the Kansas question, in the hope that some fair and honorable compromise would be effected which would settle it in a way satisfactory to all parties. I begin to fear that my hope will prove a false one; and as I will shortly be called upon to record my vote for or against the admission of Kansas, under the Lecompton constitution, it is but proper that I should make known to my constituents and my country the reasons which induce me to vote as I shall when the time arrives for me to give that vote.

I confess, sir, that this question has given me more anxiety than all others to which I have had my attention called, or on which it has been my duty to vote since I took my seat as a member of this House. Indeed, I consider it a question of more moment, and fraught with more of good or evil to the country, than any other ever presented for the consideration of Congress since the formation of our Government. It certainly demands an exercise of the best judgment, and must appeal to the patriotism of every true American citizen. We may, perhaps, in a few days decide the fate of this Republic. How careful, then, ought we to be of our words, how sure that we do no act which will cause us regret in the future!

This subject has not occupied the minds and engaged the attention of those in authority alone; it has been and is yet being discussed at almost every fireside in our land. It has been, and is now, a fruitful theme for all classes of our citizens. The statesman and the politician; the minister, the merchant and the mechanic; the farmer, the laborer, and the lawyer, have all felt, and still feel, a deep solicitude for its rightful solution and peaceful settlement. They fear, and perhaps not without just cause, that, if not settled now, it may for years to come, continue and increase the jealousy and bitterness which now exist between our brethren

of the North and South, and are, therefore, anxiously directing their attention and hopes to Congress for a speedy and amicable termination of the agitation and excitement which this vexed and dangerous question has produced throughout our country, so that peace and harmony may once more prevail among our people, and the Union stand, as it has in time past, a monument to perpetuate the fame of those whose wisdom planned it, as also the pride and boast of the nation.

How shall we meet the expectations of our fellow-citizens! How shall we drive from our political horizon the clouds which lower o'er our house, and cause the sunshine of peace and happiness to enter and keep possession of every dwelling in our once thrice happy land! We cannot do it by engendering and encouraging strife and contention between one portion and another of our people. We cannot do it by calling each other harsh names and using opprobrious epithets; by stigmatizing as base, mean, and vile, all those who may hold a certain class of human beings in servitude. We cannot do it by condemning in harsh, unmeasured terms of abuse those who may honestly think that the institution of slavery is wrong. No, sir, this will not heal the wound inflicted upon our country by the indiscretion of some and the madness of others. This will only tend to widen the breach, already too wide, between our fellow-citizens of the North and the South. The circumstances in which we are placed demand calm, sensible action, and unyielding devotion to the interests and welfare of the great people whose representatives and servants we are.

Mr. Chairman, in performing the duty which I undertook to discharge, I shall not detain the House by an elaborate or lengthy argument to prove that Kansas ought to be admitted into the Union under the Lecompton constitution. Nor is it my purpose to go into a history of the settlement of Kansas, to show that a portion of the people now there went there with the intention of making it a slave State, and another portion to make it a free State. In my judgment, the citizens of this free country have a perfect right to settle on any of the unappropriated territory of the United States; and, if the decision of the highest judicial tribunal of the nation is to be taken as the law, they have a right to take their slaves with them, and, if they can, even establish slavery as one of their domestic institutions. Nor will I pretend to show that the citizens of the North or of the South have not the right to appropriate money for the purpose of sending persons into a Territory to make it either a free or a slave State, provided such persons, after they have arrived in the Territory, set about the accomplishment of their work in a peaceful and orderly manner, and in obedience to the Constitution of the United States. This part of the present controversy I shall hand over to others to discuss, if they feel inclined to do so, and shall proceed to state a few facts, as I understand them, and the conclusions I have arrived at upon those facts.

In the year 1854 an act of Congress was passed organizing the Territory of Kansas. A Governor and other officers for the Territory were appointed by the President then in power. In 1857 a Legislature was elected, and convened at Lecompton. Divers laws were passed by this Legislature, among them one calling a convention to frame a constitution preparatory to the admission of Kansas into the Union as a State. This convention met at Lecompton, framed a constitution, and submitted it to a vote of the people.

There are four questions arising out of this state of facts to which I will direct the attention of the committee for a short time.

First. Was the Legislature which passed the act calling a convention to frame a constitution a legally elected body?

Second. Was the convention which framed the Lecompton constitution a legally elected body?

Third. Was that convention bound by law, precedent, or otherwise, to submit the constitution framed by it to a vote of the people for ratification or rejection?

Fourth. If Kansas shall be admitted into the Union, will the people of that State have a right to alter, amend, or abolish the Lecompton constitution in any other manner or at any other time than that prescribed in that constitution?

In answering the first of these questions, it seems to me that I need do very little more than read one or two extracts from the inaugural address of Governor Walker to the people of Kansas. I presume these will be considered good authority by those who rely with so much confidence upon his statements.

The extracts from the inaugural are as follows:

"Under our practice, the preliminary act of framing a State constitution is uniformly performed through the instrumentality of a convention of delegates chosen by the people themselves. That convention is now about to be elected by you under the call of the Territorial Legislature, created and still recognised by the authority of Congress, and clothed by it, in the comprehensive language of the organic law, with full power to make such an enactment. The Territorial Legislature, then, in assembling this convention, were fully sustained by the act of Congress, and the authority of the convention is distinctly recognised in my instructions from the President of the United States. Those who oppose this course cannot aver the alleged irregularity of the Territorial Legislature, whose laws in town and city elections, in corporate franchises, and on all other subjects but slavery, they acknowledge by their votes and acquiescence. If that Legislature was invalid, then are we without law or order in Kansas—without town, city or county organizations; all legal and judicial transactions are void, all titles null, and anarchy reigns throughout our borders."

Again:

"But it is said that the convention is not legally called, and that the election will not be freely and fairly conducted. The Territorial Legislature is the power ordained for this purpose by the Congress of the United States; and, in opposing it, you resist the authority of the Federal Government. That Legislature was called into being by the Congress of 1854, and is recognised in the very latest congressional legislation. It is recognised by the present Chief Magistrate of the Union, just chosen by the American people, and many of its acts are now in operation here by universal assent. As the Governor of the Territory of Kansas, I must support the laws and the Constitution; and I have no other alternative under my oath but to see that all constitutional laws are fully and fairly executed."

The position here taken by Governor Walker cannot, in my opinion, be overthrown. But, sir, both parties in Kansas, have, by their acts, admitted that Legislature to have been a legally constituted body, and the act passed by it, calling a convention, to be a binding statute. The pro-slavery party have admitted it by voting for the constitution framed at Lecompton by the convention called into being by virtue of that act; and the free-State party admitted it by voting *against* that constitution on the 4th of January last. For, if the Legislature which called the convention had no legal existence, it had no legal authority to pass any law; and it would follow, of course, that the act passed calling a convention was without force and void, and the convention which convened in pursuance of its provisions had no legal existence, and all its acts were simply and absolutely void. Will any gentleman on the other side say that the free-

State party, with Governor Stanton at their head, would act so unwisely as to have an extra session of the Legislature called for the purpose alone of passing an act submitting the Lecompton constitution to a vote of the people for ratification or rejection, if that constitution was a void instrument, as it certainly would be if the Legislature which passed the act calling the convention had no legal authority to pass such an act? It will not, I presume, be denied that the extra session of the Legislature was called at the instance of those who opposed the Lecompton constitution; and what was it called for, if the act which called the convention was an act passed by a body without legal existence or authority?

It seems to me, therefore, Mr. Chairman, that the parties in Kansas are estopped by their own acts from denying that the Legislature, which passed the act referred to, was a legally elected body, and if it was so, the laws passed by that legislature, not conflicting with the Constitution of the United States, were valid and binding.

The second question, to an examination of which I will direct the attention of members, is, whether the Lecompton convention was a legally elected body, and if so, is the constitution framed by it a legal instrument?

It is said that the convention was not a legally constituted body, and the constitution framed by it a void instrument for two reasons: First, because a number of the counties of the Territory were not represented in the convention, and could not be represented for the reason that the qualified citizens of those counties were not registered, and consequently could not vote for delegates to the convention; and, secondly, because the delegates who did assemble in that convention were not legally elected.

Let us inquire whether or not these two positions are correct; and if they are correct, how the constitution framed at Lecompton would be affected by them.

By the nineteenth section of the territorial act organizing the counties therein, there were created thirty-seven counties. Three of these counties lie on the extreme western frontier, and are said to have no population to be either represented or disfranchised. These three counties are Washington, Clay, and Dickinson. It may be said that this assertion that these counties are without population is an assumption without proof to sustain it. I would inquire, where is the evidence that there is a single citizen residing in either of these counties qualified to vote? At a time when, of all others, they would have voted, there was not a single vote given. On the 4th day of January last, when the constitution was submitted to a vote of the people, in the form in which the free-State party desired it to be submitted, not a single vote was cast in either or all these three counties. Where were the qualified citizens at so important an election as this; an election at which, if there were any voters there, they could have voted and shown their opposition to the Lecompton constitution? The fair and legitimate inference—at least, until it is proved to be otherwise—is, that these counties were without population. This would leave thirty-four counties to be represented in the Lecompton convention. These were arranged by law into election districts for the election of delegates to the convention, as follows:

- 1st district, Doniphan county.
- 2d " Brown and Nemaha counties.
- 3d " Atchison county.
- 4th " Leavenworth county.
- 5th " Jefferson county.
- 6th " Calhoun county.

7th district,	Marshall county.
8th "	Riley and Pottawatomie counties.
9th "	Johnson county.
10th "	Douglas county.
11th "	Shawnee, Richardson, and Davis counties.
12th "	Lykings county.
13th "	Franklin county.
14th "	Weller, Breckinridge, Wise, and Madison counties.
15th "	Butler and Coffee counties.
16th "	Lynn county.
17th "	Anderson county.
18th "	Bourbon, McGee, Dorn, and Allen counties.
19th "	Woodson, Wilson, Godfrey, Greenwood, and Hunter counties.

There were, as the returns made to the Governor will show, nine thousand two hundred and fifty-one voters registered in twenty-one of these thirty-four counties. The names of these counties, and the number of voters registered in each, are as follows:

<i>No. of district.</i>	<i>Names of counties.</i>	<i>No of legal voters.</i>
1.....	Doniphan.....	1,085
2.....	Brown.....	208
	Nemaha.....	140
3.....	Atchison.....	50
4.....	Leavenworth.....	1,837
5.....	Jefferson.....	555
6.....	Calhoun.....	291
7.....	Marshall.....	200
8.....	Riley.....	353
	Pottawatomie.....	205
9.....	Johnson.....	496
10.....	Douglas.....	1,313
11.....	Shawnee, Richardson, and Davis.....	285
12.....	Lykings.....	413
13.....	Franklin.....	no return
14.....	4 counties.....	no return
15.....	2 counties.....	no return
16.....	Lynn.....	413
17.....	1 (Anderson).....	no return
18.....	Bourbon, McGee, Allen, and Dorn.....	645
19.....	5 counties.....	no return
Total.....		9,251

Upon this registration being returned to Governor Stanton, he made an apportionment of representation in accordance with law. That apportionment is as follows:

1st district,	Doniphan county.....	7 delegates
2d "	Brown and Nemaha.....	2 "
3d "	Atchison.....	5 "
4th "	Leavenworth.....	12 "
5th "	Jefferson.....	4 "
6th "	Calhoun.....	2 "
7th "	Marshall.....	1 "
8th "	Riley and Pottawatomie.....	4 "
9th "	Johnson.....	3 "
10th "	Douglas.....	3 "
11th "	Shawnee, Richardson, and Davis.....	2 "
12th "	Lykings.....	3 "
16th "	Lynn.....	3 "
18th "	Bourbon, McGee, Dorn, and Allen.....	4 "

It will be seen, by this apportionment, that twenty-one of the thirty-four counties were represented in the Lecompton convention, leaving sixteen not represented by their own delegates.

I have shown, I think, that in three of these sixteen counties there was no population to be represented.

The citizens of the remaining 13 counties were not registered and consequently could not vote for delegates to the convention. It is right that the citizens of other sections of the country should know why these persons were not registered, and I will therefore endeavor to give that information. The act of the Legislature of Kansas provided that an enumeration of the citizens, qualified to vote for delegates should be taken. The sheriff of each county was required to perform this duty, and was authorized to appoint deputies in each election precinct for that purpose. If there was no Sheriff in any county, the Probate Judge was required to perform the duty, and was authorized to appoint deputies. If in any county there was neither Sheriff nor Probate Judge, the Governor was to appoint persons to make the enumeration. The officers making the enumeration were required to return lists of the qualified voters into the office of the Probate Judge, and also to post lists at certain public places, for the inspection of all qualified citizens. The Probate Judge was required to continue his court, for one month, so that the lists returned into his office might be corrected at the instance of any person who might request it. Is there any evidence that a single person in either of these counties, required his name to be put on the list of voters and was refused? If there is such evidence I have not seen it. In my own State each person who desires to vote at any State or county election, is required to see for himself that his name is on the list of voters, ten days before the day of election. If his name is not on the list, and if he has not paid a State or county tax, within two years, immediately preceding the day of election, he is not entitled to vote. If he obstinately refuses to attend to his duty, in having himself assessed, it is his own fault, and no sympathy is felt for him by any one. The assessor is not bound to inform him whether his name is on the list or not. He must see to this himself. I am of opinion that the people of my State are in every respect as good as the people in Kansas, and that, if the citizens of Kansas will not take the trouble to have their names put upon the list of voters, as we are required to do in the Keystone State, they have very little cause of complaint. They could have been registered if they had pursued the proper course.

Let us see, then, how many delegates the remaining thirteen of the so-called disfranchised counties would have been entitled to if the citizens therein residing had been registered and entitled to vote for delegates.

At the election on the 4th of January last, when the Lecompton constitution was submitted for ratification or rejection to a vote of all the qualified citizens of Kansas, in the form desired by the free-State party, there were given in six of these thirteen counties one thousand two hundred and twenty-five votes, all told, and in the other seven not one vote was cast. I would ask again, where were the qualified citizens of these seven counties at this time when they could have voted, and, if opposed to the Lecompton constitution, had an opportunity to show that opposition? Were there qualified voters in these seven counties entitled to be represented in the convention? If there were, their conduct was not only singularly strange, but it affords strong ground for a presumption that they were sat-

ished with what the convention had done, and approved the constitution. There is a trite adage, and one generally true, that silence gives consent. It is certainly so in elections.

Governor Walker assumed this position in his inaugural address to the people of Kansas. He says:

"The law has performed its entire appropriate function when it extends to the people the right of suffrage, but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency, and the absentees are as much bound under the law and constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative."

I have not read this portion of the Governor's inaugural to show that the citizens of Kansas had a right to annul, by their votes on the 4th of January last, the constitution which had been adopted by a vote of the citizens on the 21st of December preceding. I only quote from this authority to establish the rule which I have laid down, because whatever the Governor says now is taken by my friends on the other side of the House as verity itself. If this rule be a correct one, does not a fair presumption arise, from the conduct of the citizens of these seven counties in not voting against the constitution on the 4th day of January, that they either approved it, or that they would not have voted for delegates if they could have done so! To my mind it is clear that, if they approved the constitution, or if they obstinately refused to vote when they had the opportunity, they would have refused to vote for delegates if they had been permitted so to do, and in either case they are in law without remedy, and the Lecompton constitution is to be taken as an expression of their will.

Let us inquire next to what number of delegates the remaining six of the disfranchised counties would have been entitled in the convention if they could have elected delegates! The convention, by legislative enactment, was to consist of sixty delegates. The number of voters registered in the counties represented in the convention was 9,251. Add to this number the whole number of votes given in these six counties on the 4th of January last, which was 1,225, and you have as the total, 10,476. This number divided by 60, (the number of delegates of which the convention was to be composed,) and it will show how many voters it required to elect a delegate. It will be seen that it required 174. If we divide 1,225 (the number of votes polled in the six counties referred to) by 174, it will show that the six counties were entitled to just seven delegates.

Now, sir, taking it as granted that all these counties would have elected free-State delegates, there would have been just that number of free-State delegates in the convention. But, sir, let us go further, and admit, for the sake of the argument, that the thirteen counties said to be disfranchised, (not taking in the account the three where nobody lived,) had been entitled to all the delegates, except those who took their seats as members of the convention, they would have been entitled to only sixteen delegates; for it will be observed that forty-four delegates from the other districts signed the constitution. What could have been done by these sixteen delegates? Could they have controlled the action of the convention? Would not the constitution have come from the convention precisely as it did? It is but fair to presume that it would.

The position assumed by some, that the delegates who did assemble in

convention at Lecompton and frame a constitution, were not legally elected, is not, in my judgment, sustained by the facts, and is without support in law. I have never yet heard it asserted, here or elsewhere, that these delegates had not severally received a majority of all the legal votes polled at the delegate election. If such is the fact, I have not seen the proof. It is said, however, and perhaps truly said, that these delegates received a great many fraudulent votes. What effect would this have on their right to seats in the convention? If they received a majority of all legal votes polled, were they not legally elected? What is the inquiry before a committee appointed to ascertain the right of a member of Congress to his seat? Certainly it is not whether he has received fraudulent votes, but whether he has received a majority of all the legal votes polled. If he has, he is declared elected. I know of no difference in an election of a member of Congress and a delegate to a convention which would render the election of one void and not that of the other. If all the offices were to be vacated now in our Union, by those filling them, who have received illegal votes, there would be scarcely a corporal's guard of officials in all the land. I do not wish to be understood as approving the frauds committed in Kansas. I hate fraud at elections, and heartily despise the men who can commit them. But we must not be led to the other extreme, and pronounce all elections void because some illegal votes may be polled by bad men. This would destroy our Government itself, and leave us without law and all our rights insecure.

It is further urged as an argument against the Lecompton convention, that a large number of the qualified citizens of Kansas refused to vote at the election of delegates, because they apprehended violence on the part of the pro-slavery men, and that they would be outvoted by fraudulent votes; and that even if they did poll a majority of votes, false and fraudulent returns would have been made to defeat them. Would this plea answer in a court of justice if the question of the election of an officer was being inquired into before it? Certainly not. The mere apprehension of violence or fraud could not be alleged before a judicial tribunal so as to render void an election. It is the same here. We cannot inquire into the apprehensions of citizens of fraud or violence to invalidate an election. Governor Walker, when speaking of the act calling the convention, and entreating the citizens of Kansas to vote at the election of delegates, was right when he said:

"I see in this act calling the convention no improper or unconstitutional restrictions upon the right of suffrage. I see in it no test-oath, or rather similar provisions objected to in relation to previous laws, but clearly repealed as repugnant to the provisions of this act, so far as regards the election of delegates to this convention. It said that a fair and full vote will not be taken. Who can safely predict such a result? Nor is it just for a majority, as they allege, to throw the power into the hands of a minority from a mere apprehension (I trust entirely unfounded) that they will not be permitted to exercise the right of suffrage. If, by fraud or violence, a majority should not be permitted to vote, there is a remedy, it is hoped, in the wisdom and justice of the convention itself, acting under the obligations of an oath, and a proper responsibility to the tribunal of public opinion."

These people who refused to vote for this reason were badly instructed, and should have disobeyed their leaders, gone to the polls, offered to vote, at least; and if they had been turned away by violence, or defeated by fraudulent votes or returns, the convention would not have dared to sanction the outrage. By staying away from the polls they gave the right to those who did vote to secure a majority of the delegates to the convention, and that, too, in accordance with all the rules of law in such cases.

I have already quoted what Governor Walker said to the people of Kansas on this point, and agree with him that "those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency." If this rule was not to be observed, all free governments would soon be at an end.

But, sir, it is doubted by some eminent statesmen, as well as lawyers, whether we have any right to inquire into the right of a member of the Lecompton convention to his seat. They say, and I agree with them, that such a body is the sole judge of the qualifications of its own members; and that if fraud was committed in the election of one or more of the delegates, the convention alone could inquire into it. This is certainly the law with regard to members of Congress, and of all the legislative bodies in the Union. Is it not the same with regard to the election of delegates to a territorial convention? I think I have shown that the delegates to the Lecompton convention were legally elected; and if they were, and once took their seats, it will not be denied that they had the right to frame a constitution for the people of Kansas.

That the Lecompton constitution is a legal instrument cannot, in my judgment, be successfully denied. All parties in Kansas have, by their acts, admitted it to be legal. The pro-slavery party admit it now, and ask for the admission of the State into the Union under it. The free-State party has recognised it as a binding instrument, not only by voting on the 4th of January last to nullify it, but also by voting for the officers provided for in it. If the constitution was then rendered void, the officers elected on that day are without authority, and if they attempt to exercise any authority, the people will be at liberty to disregard all they do. If this be true, the people of Kansas are without a government. Is there any gentleman here bold enough to take this position.

It is said, however, that if the constitution framed at Lecompton was even legally framed, it was made void by the vote of the people on the 4th of January. Is this correct? Will any gentleman argue that the same act that called the government of Kansas into existence, made void the constitution under which that government was called into being? How can a government exist if the instrument is made void by virtue of which the government "lives, moves, and has its being?" If the Governor, and other State officers, and the members of the Legislature elected on the 4th of January are legally elected, then the constitution under which they were elected is a legal instrument.

The next question for discussion is, was the Lecompton convention bound by law, precedent, or otherwise, to submit the constitution there framed to a vote of the people for adoption or rejection?

I confess that I would have preferred a submission of that constitution altogether to a vote of the qualified citizens. I have every reason to believe that the President desired that submission; and we all know that Governor Walker preferred it. But, let me ask, what has my preference to do with the question? What had the desire of the President or of Governor Walker to do with it? Just nothing at all. The convention was independent of all control, let it be assumed by high or low. Governor Walker says to the people of Kansas:

"You should not console yourselves, my fellow-citizens, with the reflection that you may, by a subsequent vote, defeat the ratification of the constitution. Although most anxious to secure to you the exercise of that great constitutional right, and believing that the constitution is the servant and not the master of the people, yet I have no power to dictate the proceedings of that body."

Governor Walker was right. He had not, nor had any other human being outside of the convention, the power to dictate what its proceedings should be.

Was there any law requiring the convention to submit the constitution to a vote of the people? If there was, I have failed in my search for it.

The territorial act, under the authority of which the convention assembled, is in the words following:

"The delegates thus elected [to the convention] shall assemble in convention at the capital of said Territory on the first Monday of September next, and shall proceed to form its constitution and State government, which shall be republican in its form, for admission into the Union, on an equal footing with the original States in all respects whatever, by the name of the State of Kansas."

It will be observed that there is not one word, either in the organic law organizing the Territory, or in the territorial act calling the convention, requiring a submission of the constitution to a vote of the people, before it should become binding on them as the fundamental law of the State. By what law, then, was its submission required? By no law whatever.

Indeed, it is but fair to argue that the people of Kansas were opposed to the submission, for the reason that the act which was passed, calling the convention, was vetoed by the Governor because it did not require the convention to submit the constitution to a vote of the people, and it was afterwards passed, over the veto of the Governor, by a vote of two thirds of the members of the Legislature. If the members of the Legislature represented the views of their constituents, and it is generally supposed that legislators do so, the enactment of a law under such circumstances would be strong evidence to prove that the people were averse to a submission of the constitution, for adoption or rejection, to a vote of the citizens.

Did precedent require a submission of that constitution to a vote of the people of Kansas? Not one of the original States of this Union had submitted to a vote of the people its constitution before entering into the Union. Not one half of the remaining States which have entered the Union since, had their constitution submitted before they were admitted. Two thirds, at least, of all our States entered the Union without a submission of their constitutions. Are all these constitutions invalid because they were not submitted to a vote of the citizens? Who will dare assert such an absurdity? I wish not to be understood as opposing a submission of State constitutions to a vote. I am in favor of it. But I assert here that a constitution is valid and binding without it; and when the law calling a convention to frame or alter a constitution does not require such submission, the convention is not bound to submit it.

The last subject to which I shall direct the attention of the House, is the question so much controverted here and elsewhere; that is, whether or not the people of Kansas can alter, amend, change, or abolish the Lecompton constitution at any time they may see proper so to do?

I hold the doctrine, Mr. Chairman, that if Kansas is admitted into the Union under the Lecompton constitution, the qualified citizens of that State can alter, amend, or abolish that constitution whenever they see proper. I am further of the opinion that the citizens of a State may change their constitutions in any other way than that prescribed in the constitution itself; and that if they do, it will be binding upon the people of the State until it is changed again. In this opinion I am at least sustained by precedent, and I think by common sense. The people of the State of Mary-

and are at this hour governed by a constitution framed and adopted different time, and in a different mode, from that prescribed in the constitution changed.

The constitution of that State provided as follows:

"That this form of government, and the declaration of rights, and no part thereof, shall be altered, changed, or abolished, unless a bill so as to alter, change, or abolish the same, shall pass the General Assembly and be published at least three months before a new election, and shall be confirmed by the General Assembly after a new election of delegates in the first session after such new election."

It will be observed that this provides that two consecutive Legislatures shall approve the law providing for the alteration of the constitution. The Legislature at a single session passed an act authorizing the people to decide by vote whether a convention should be called to amend the constitution. The people decided that a convention should be called; the convention assembled; amended the constitution; the amended constitution was adopted by the people; and they are now living under, and observing as valid and binding, its provisions. Who dare say aught against it, or who deny them the right to live under that constitution, and to punish all who violate it? Can any people out, of that State deny its validity? and if the citizens in the State are satisfied with it, who has any right to complain? I am informed that the present Legislature of Maryland, which has a majority of that party usually called "Know Nothings," have passed an act to amend their present constitution before the time fixed in the constitution itself for its change. If the people of Maryland, under this act, should change their constitution, is there any power or people outside of Maryland that can interfere and prevent its going into operation? Certainly not. I do not speak with certainty; but I am under the impression that the States of New York and Indiana changed their respective constitutions in a different manner, or at a different time, from that prescribed for so doing in the constitution changed. Will any one here say that the constitutions of these States are not valid, and can be violated with impunity? I think not. Is there anything more sacred and unchangeable in the constitution of Kansas than in those of Maryland, New York, and Indiana?

If the people of Kansas shall desire to alter, amend, or abolish the Lecompton constitution, if the State shall be admitted with that constitution, all they have to do is to get an act of the Legislature passed, calling a convention to alter or amend the same; and if the people, by a vote, either adopt or acquiesce in the constitution so altered or amended, no people in any other State of this Union can interfere. I will venture to say that there is not a member on the other side of the House who will say that if the Legislature, at its first session, shall pass an act calling a convention, and the act is approved by the Governor, and the convention should strike out all the Lecompton constitution, which recognizes slavery as one of the domestic institutions of Kansas, and if the people adopt the amended constitution, it would not be valid and binding on all people residing there. If this can be done, why not abolish the whole constitution and make an entire new one? If they do so, no power under heaven can interfere with them and their rights under that constitution as long as it remains unaltered. This may be called revolution. If it is, it is a peaceful revolution, under form of law, and destroys no man's rights.

I assume the position, also, that the people of Kansas have the right to

alter, amend, or abolish their constitution at any time they may see proper, because that right is reserved to them in the bill of rights. There is a provision in the bill of rights in these words:

"2 All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and, therefore, they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper."

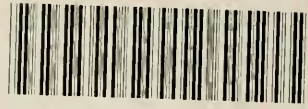
It is said that a bill of rights in a constitution is the same as a preamble to a law. What is a preamble to a law but a statement of the necessity of a law to secure some right or redress some wrong? It simply shows that up to that time some right was left insecure, or some wrong unredressed, by reason of the want of a law. It does not reserve a right. It shows the necessity of taking away from some the right to injure their neighbors. But what does this section of the declaration of rights provide? That *the right of the people to alter, reform, or abolish their form of government, in such manner as they may think proper, is inalienable*. The definition of the word inalienable is, "*rights which cannot be given up*." If this right is *inalienable* it cannot be taken away by any other provision of the same constitution. If it is reserved in the people—not given up by them—it is a provision above all others, and must be observed before all others; because it is for the security of the rights of the people against oppression and wrong. The rights of the people cannot be taken away or curtailed except by an express provision of law; and when that provision comes in conflict with another provision in the same instrument, by which a certain right is reserved to and declared to be inalienable and indefeasible in the people, the former must give way to the latter.

And now, Mr. Chairman, I have discharged the duty I undertook, in the best manner I could. I will record my vote for the admission of Kansas under the Lecompton constitution, because I believe the laws of my country, which I am bound to support, demand it of me. The consequences to myself I have nothing to do with. I am in the hands of those who honored me with a seat on this floor. They are honest, intelligent, and generous, and I know they will do me the justice to believe that my opinions are honestly entertained. If they think I have misrepresented them, and that there is another more worthy or capable to represent them here, I believe in their right to send that person in my place. I will not complain. When I have done my duty in obedience to the dictates of my judgment, and, as I believe, in accordance with the laws of my country, I shall be contented, whatever may be my fate in the future. I would now willingly sacrifice my position, and all my political prospects in the future, whatever they may be, if, by so doing, I could secure peace and quiet among our people. I love my native land; I am proud of the past history and present greatness of my country; and I confidently look forward to the day when all nations shall acknowledge our superiority, and when, through the benign influence of our free institutions, the kingdoms of the earth shall be regenerated, and the whole human race disenthralled. Let us cherish these institutions. Let us environ our Union with an impenetrable wall of strong arms and stout hearts. That Union? Who does not love it? The grandest edifice the world has ever beheld—erected by the wisdom of men of whom the world was not worthy—cemented by the blood of the purest patriots who ever lived in the tide of time, and bequeathed by them to us a priceless heritage—it has resisted all the rude shocks and angry waves which have heretofore threatened its destruction,

and shall stand firm upon its base in all time to come, if we, and those coming after us, shall guard it with but half the vigilance exercised by those who spent their energies and lives to secure its perpetuity. I earnestly beseech my brethren of the North and of the South to act now, when our country is perhaps in its greatest peril, not as the Representatives of a divided and distracted people, but as the Representatives of the whole country. Let us abandon all sectional feeling, and rally around the standard of our common country. Let us keep our time-honored flag waving gallantly over our heads, no star obliterated, no stripe erased, until, as State after State shall be admitted into our Union, and star after star be added to that flag, all over the land, from North to South, from East to West, there may be borne on every breeze, "the cry is still they come."



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